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ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

**Docket No.** TSCA-07-2002-0186

The Complainant, by delegation from the Administrator of the United States Environmental Protection Agency (EPA), and the Regional Administrator, EPA, Region 7, is the Director, Air, RCRA, and Toxics Division, EPA, Region 7. The Respondent is James W. Wells, 1744 Grape Ave., St. Louis, Missouri 63147.

Complainant's Allegations

Complainant has reason to believe that Respondent has violated Section 409 of TSCA, 15 U.S.C. § 2689, by failing to comply with the regulatory requirements of 40 C.F.R. part 745, subpart F - Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property ("Disclosure Rule"), which was promulgated pursuant to Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d. Specifically, Complainant alleges:

Count I

1. James W. Wells ("Respondent") is an individual person.
2. For all periods of time relevant to the violation alleged herein, Respondent owned a residential property located at 5608 Wabada Ave., St. Louis, Missouri (the "Property").
3. The Property was constructed prior to 1978.
4. The Property is "target housing" as defined by 40 C.F.R. § 745.103.
5. On or about March 1, 2000, Respondent entered into a rental agreement (the "Contract") with Robbin Johnson for the lease of Respondent's Property for residential use.
6. As a result of the Contract described in Paragraph 5 above, Respondent became a "lessor", and Robbin Johnson became a "lessee", as those terms are defined by 40 C.F.R. § 745.103.
7. Robbin Johnson subsequently moved into the Property along with her two-year-old child.
8. Pursuant to 40 C.F.R. § 745.107(a)(1), before the lessee is obligated under any contract to lease target housing, the lessor of target housing must provide the lessee with an EPA-approved lead hazard information pamphlet.
9. Respondent did not provide an EPA-approved lead hazard information pamphlet to Robbin Johnson prior to being obligated under the rental Contract described in Paragraph 5 above.

10. Respondent's failure to provide an EPA-approved lead hazard information pamphlet to Robbin Johnson prior to being obligated under the rental Contract described in Paragraph 5 above is a violation of 40 C.F.R. § 745.107(a)(1) and Section 409 of TSCA.

#### CONSENT AGREEMENT

1. For the purposes of this proceeding, Respondent admits that Complainant has jurisdiction to bring this action pursuant to the statutory and regulatory provisions cited above, and neither admits nor denies Complainant's factual allegations above.
2. Respondent waives his right to contest Complainant's allegations above, and his right to appeal the Final Order accompanying this Consent Agreement.
3. Respondent and Complainant agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.
4. Respondent certifies by the signing of this Consent Agreement and Final Order that to the best of Respondent's knowledge, he is presently in compliance with all requirements of 40 C.F.R. part 745, subpart F - Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property ("Disclosure Rule").
5. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a civil penalty in the amount of Six Hundred Dollars (\$600.00), to be paid in three equal installments of Two Hundred Dollars (\$200) each. The first installment shall be due within forty-five (45) days of the effective date of this Final Order. The second installment shall be due on December 1, 2002; and the third installment shall be due on March 1, 2003.
6. Respondent understands that his failure to timely pay any portion of the penalty stated in Paragraph 5 above may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall accrue thereon at the rate determined by the Secretary of the Treasury (currently five

percent (5%) per annum for the period January 1, 2002 through December 31, 2002) on the unpaid balance until such civil penalty and any accrued interest are paid in full. Additionally, as provided by 31 U.S.C. § 3717(e)(2), a five percent (5%) per annum penalty (late charge) may be assessed on any amount not paid within ninety (90) days of the due date.

Final Order

Pursuant to the provisions of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2601 et seq., and based upon the information set forth in the Consent Agreement accompanying this Final Order, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a civil penalty of Six Hundred Dollars (\$600.00), to be paid in three equal installments of Two Hundred Dollars (\$200) each. The first installment shall be due within forty-five (45) days of the effective date of this Final Order. The second installment shall be due on December 1, 2002; and the third installment shall be due on March 1, 2003. Such payments shall identify the Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and remitted to:

EPA-Region 7  
c/o Mellon Bank  
P.O. Box 360748M  
Pittsburgh, Pennsylvania 15251.

2. A copy of the check must be sent simultaneously to each of the following:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 7  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101; and

Mike Gieryic  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101.

3. Respondent and Complainant shall bear their own costs and attorneys' fees incurred as a result of this matter.

RESPONDENT:  
JAMES W. WELLS  
ST. LOUIS, MISSOURI

Date 7/18/02

By James W. Wells  
James W. Wells

COMPLAINANT:  
U.S. ENVIRONMENTAL PROTECTION AGENCY

Date 7-23-02

By William A. Spratlen  
for William A. Spratlen  
Director  
Air, RCRA, and Toxics Division

Date 7/24/02

By Mike Gieryic  
Mike Gieryic  
Assistant Regional Counsel

IT IS SO ORDERED. This Final Order shall become effective immediately.

Robert L. Patrick  
Robert L. Patrick  
Regional Judicial Officer

Date July 30, 2002

IN THE MATTER OF James W. Wells, Respondent  
Docket No. TSCA-07-2002-0186

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:


Copy hand delivered to  
Attorney for Complainant:

Michael Gieryic  
Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by First Class Mail Return Receipt:

James W. Wells  
1744 Grape Avenue  
St. Louis, Missouri 63147

Dated: 7/31/02

  
Kathy Robinson  
Regional Hearing Clerk